IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

INCOME TAX APPEAL NO.132 OF 2003

Shri Sanjay Desai Appellant
vs.
The Assistant Commissioner of Income-tax,
Central Circle 27, Mumbai. Respondent

Mr.Sunil Lala for the appellant.

Mr.R.V.Desai, senior counsel with Ms.S.V.Bharucha i/b.
Mr.P.Kapur for the respondent.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 15th October 2004

P.C.

Heard Mr.Sunil Lala, the learned counsel for the assessee and Mr.R.V.Desai, the learned senior counsel for the revenue.

2. The assessee in his statement under Section 132(4) of the Income Tax Act failed to specify the manner in which the income was earned from gambling speculation. He only disclosed that he earned Rs.27,50,000/- from gambling speculation. The manner in which the said income was earned was not specified in his statement under Section 132(4). In view thereof, obviously, the condition of Explanation 5 appended to section 271 (1)(c) was not satisfied.

3. The observation made by the Tribunal that the

expression "the manner" occurring in explanation 5 appended to section 271 (1)(c) reflects some kind of evidence in support of the nature of income has to be understood to mean the manner in which such income was derived and not the disclosure of the source alone.

4. The reliance placed by the learned counsel for the appellant on the Circular No.469 dated 23rd September 1986 and the judgments of the Supreme Court in the case of Commissioner of Income-tax v. Vegetable Products Ltd., 88 ITR 192 and Mancheri Puthusseri Ahmed & ors. v. Kuthiravattam Estate Receiver, (1996) 6 SCC 185 for what we have observed above have no application.

5. No substantial question of law arises.

6. Dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)